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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.				
10/506,702	09/07/2004	Michael J Breslin	21047YP	3343				
210 MERCK AND CO., INC P O BOX 2000 RAHWAY, NJ 07065-0907	7590 02/08/2008		<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">HAVLIN, ROBERT H</td></tr></table>		EXAMINER		HAVLIN, ROBERT H	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/506,702

Applicant(s)

BRESLIN ET AL.

Examiner

Robert Havlin

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 3,4,6 and 8-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3,4 and 10 is/are rejected.
- 7) ☒ Claim(s) 3,4,6 and 8-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

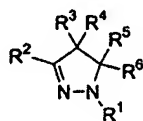
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**DETAILED ACTION**

Claims 3, 4, 6, and 8-10 are currently pending.

This action is the first action following the filing of an RCE. The restriction and election from the prior office action is reinstated as:

The elected species is free of art and the search and examination was extended



to the products of the formula II in which:

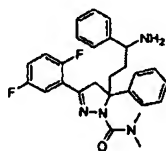
**R1** is (C=O)-C<sub>1-10</sub>-alkyl, (C=O)O-C<sub>1-10</sub>-alkyl, (C=O)N(C<sub>1-8</sub> alkyl)<sub>2</sub>

**R2** and **R6** are phenyl, optionally multiply independently substituted with **R7**

**R3** and **R4** are hydrogen

**R5** is H, C<sub>1-10</sub>alkyl optionally multiply independently substituted with **R7**

**R7** is phenyl and -NH<sub>2</sub>, (C=O)<sub>2</sub>O-C<sub>1-10</sub>-alkyl, halo, -OH, -CO<sub>2</sub>H, -CN, or -CHO.



With the elected species of:

As detailed in the following rejection, no generic claim was found allowable; therefore the claims were further restricted to the scope of only the elected species. Thus the subject matter not reading on the elected species is withdrawn from consideration.

***Claim Rejections - 35 USC § 103***

As a result of applicant's amendment of eliminating the Markush alternative, the rejection of claims 3 and 4 under 35 USC 103(a) is withdrawn.

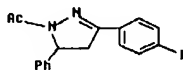
***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 3, 4, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Mishriky et al. (CAPLUS Abstract (accession #1988:570299) of Egyptian Journal of Chemistry (1987), Volume Date 1986, 29(2), 241-6).



The claims are anticipated by the species of Mishriky et al. This species reads on the claims when: R1 is (C=O)CH<sub>3</sub>; R2 is Phenyl substituted with 4-F; R3, R4, and R5 are hydrogen; and R6 is Phenyl.

***Claim Objections***

Claims 3, 4, 8, and 10 are objected to as being dependent on a rejected base claim.

Claims 3, 4, 6, 8-10 are objected to for reading on non-elected subject matter in view of the restriction to the scope of the elected species.

***Conclusion***

No claims are in condition for allowance.

**Correspondence**

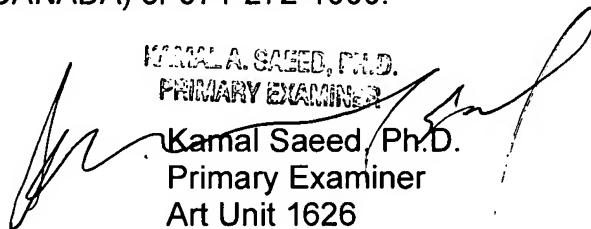
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Havlin whose telephone number is (571) 272-9066. The examiner can normally be reached on Mon. - Fri., 7:30am-5pm EST.

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If attempts to reach the examiner by telephone are unsuccessful the examiner's supervisor, Joe McKane can be reached at (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert Havlin/  
Robert Havlin, Ph.D.  
Examiner  
Art Unit 1626

  
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